

LETTER

OF

MR. GALBRAITH, OF PENNSYLVANIA.

Addressed to the Legislature of Pennsylvania, in reply to certain resolutions of that body instructing the Senators, and requesting the members of Congress, from that State, on the subject of the public lands and the tariff.

To the honorable the members of the Senate and House of Representatives of the Commonwealth of Pennsylvania.

GENTLEMEN: I received, a few days since, forwarded by the Governor of the State, agreeably to your request, as passed by your honorable bodies, certain resolutions touching the *public lands* and the *tariff*.

If an opportunity had been afforded, it was my intention, as one of the representatives thus requested, to have presented the resolutions in the House of Representatives, immediately on their receipt, with my own views in relation to their objects; but the public business has been so pressing and urgent, that I have thus far been prevented from doing so, and have concluded to submit a few brief remarks in a letter addressed to you, by way of reply to your requests. The subjects embraced in your resolutions were not entirely new to me, having, on former occasions, examined them somewhat carefully. Coming, however, from so high a source as the Legislature of my native State, sanctioned with the form and solemnity of legislative action, entitled to the presumption, at least, of having been ripened by mature reflection and the exercise of deep and wise deliberation, they deserve, as they have received, the most careful and anxious review of the whole ground covered by them, and every thing I could bring in aid of a proper conclusion. Whatever respect I may entertain for the high authority from which they emanate, I cannot however recognise the right existing there, or any where excepting with the *people* whom I represent, to require a surrender of my own judgment, feeble and erroneous as it may be. My constituents not having thought

proper to give any expression upon those subjects, I know no guide but my own conviction of right, after examining deliberately all the lights shed and opinions expressed, including the resolutions themselves.

There are three purposes expressed and urged in the resolutions, distinct in themselves, though intimately connected and depending upon each other, two in your first, and one in the second resolution, to wit:

1. "To resist any and all attempts, under what pretence soever the same may be made, to deprive the people of this State of their just proportion of the common inheritance in the public lands."

2. "To introduce and advocate the passage of a bill providing for the distribution of the proceeds of the same [public lands] among the several States, in the ratio of their Federal representative population, under the census of one thousand eight hundred and forty."

3. "To vote for such remodification of the tariff as may increase the revenue derived from imposts equal to the wants of the National Government, so that at no time hereafter, under any pretext whatever, shall any money arising from the sales of the public lands be used by the General Government."

I confess I have been at some loss to comprehend the meaning of the first of these purposes, or what was intended to be embraced by the expression—"attempts to deprive the people of this State of their just proportion of the common inheritance in the public lands." Do they refer to any action or proposition made or about to be made in Congress? The word "attempts, under what pretence soever the same may be made," &c. would seem to imply a suspicion of some secret effort, under the guise of a plausible appearance, directed particularly against Pennsylvania, "to deprive the people of our State of their just proportion of the common inheritance," &c? I cannot imagine to what the language of this resolution refers, unless it be, either *cession* to the States in which the public lands lie—*graduation*—or *pre-emption*. Supposing it must refer to one of these, I shall briefly consider each of these propositions. And, first:

Cession, or surrendering by act of Congress of the public lands to the particular States in which they are situated. I am not aware that this naked proposition has been seriously urged from any quar-

ter, or that there is any probability or danger of its ever being adopted. I do not believe that Congress possess the power, under the Constitution, to pass any such law. The Constitution vests certain specified powers in Congress, limited to certain enumerated objects; such as "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States, &c.—to borrow money, &c.—to regulate commerce with foreign nations," &c. And after enumerating all that Congress shall have power to do, in a concluding clause, provides that it shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c. The public lands are the property of the nation, vested absolutely in the Government, and I cannot find among the enumerated powers of Congress, that of giving away, or transferring to any of the States, or to any body else, without consideration, and for no common defence or general welfare of the United States, the public property of the Government. Congress is empowered to legislate for the nation, but not to make gifts of the public property of the nation. It is true, there is a clause of the Constitution which declares, that "Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory, or other property belonging to the United States;" but declares, further, that "nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State." A cession, or gift, of the public lands to the States in which they are located, would prejudice the United States by lessening the revenue and resources of the Government. It would also prejudice all the other States, by rendering a heavier tax necessary to be imposed upon the people therein, to support the national Government. Without enlarging further, I can only say, that, if cession be what is referred to in this resolution, and any such proposition should be made, I shall most cordially "resist" it, in accordance with your request.

Graduation, or reduction of the price of the public lands which have been long in the market, according to an established scale of supposed value, has been sometimes spoken of, and propositions for that purpose submitted to Congress from time to time. This plan is based upon the supposition that lands which have been long in market are of an inferior quality, and cannot be sold at the usual price of \$1.25 per acre. If the reports from the land offices could be relied upon, there is much plausibility in the plan of graduation; but on looking back at the various reports from the year 1828, and comparing them with the returns of the amount of sales of lands at the Government price, reported as refuse and worthless lands, I have fully satisfied my own mind that whatever propriety there may be in that plan at some future day, there is no necessity, nor is there safety in adopting it at present, nor, perhaps, for years yet to come. Entertaining this opinion, I shall "resist" this also, as being calculated to reduce the revenue arising from the public lands, and, consequently, leaving a larger sum to be raised from the people of the States.

I can scarcely suppose that you intended to designate *pre-emption* as an "attempt to deprive the people of this State of their just proportion of the common inheritance in the public lands." The principle of *pre-emption*, or actual settlement, has always been a favorite in our State from its first settlement, both with the legislative and judiciary branches, as well as with the people. Fifty-five years ago, by an act of 1785, a legislative definition is given to an actual settlement, entitling to a *pre-emption*. Long prior to this, however, actual settlements had prevailed over junior office titles in our courts, and had been recognised by legislative provisions. Where is the difference in the principle as applicable to Pennsylvania lands and those belonging to the National Government? It gives away no property or right—takes nothing from the Government—but simply gives to the actual settler, the improver of the soil, the right of first purchase at the Government price. So far from lessening the revenue derived from the public lands, it is calculated to increase it by holding out a fair inducement to the poor industrious citizen, and enabling him to obtain, by the fruits of his own labor, a small farm for himself and family—opening up the wilderness, by which others are induced to settle and purchase, the country improved, industry encouraged, and the proceeds annually enlarged. A bill proposing to establish permanently this principle, which has been often recognised in special laws, and incorporate it into our national land system, has passed the Senate, is now pending in the House, and if an opportunity presents itself, I shall vote for it, and give it my most cordial support, under the most clear and full conviction of its propriety, justice, and sound policy.

I proceed to consider the second purpose mentioned in your resolutions—the "*distribution* of the proceeds of the public lands among the several States in the ratio of their Federal representative population under the census of 1840." This branch of the resolutions I regard as of infinitely deeper consideration than any thing which can be embraced in either of the former branches; inasmuch as it reaches an infinitely wider and more extended interest, if wrong in principle, it is so much the more dangerous in its tendencies. It is always with regret, and some degree of diffidence, that I venture an expression of opinion in opposition to that of the assembled representatives of my own State; but having arrived at a conclusion upon this question, directly opposite to that expressed in your resolutions, honesty, as well as duty to myself and my constituents, demand a frank, full and undisguised and unreserved expression of my judgment upon it. A high respect for your station, as well as a sincere regard for those of you within my personal acquaintance, render it proper that I should present to you, and to our mutual constituents, some of the reasons which have brought my mind to a conclusion differing from that expressed in your resolution.

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Is there any difference in principle, so far as the Constitution is concerned, between a *gift* of the public property to one or ten States, and a *gift* of the same to the whole twenty-six, even were it possible to devise a rule of equal proportion, which I think may be well doubted with respect to the rule you propose? or can any distinction be justly drawn between a gift of the *land* itself and the *proceeds* arising from the sale of the land? For my own part, I cannot see any foundation in principle for a distinction. It seems to me, then, abundantly clear, that Congress have no power vested in them by the Constitution, either to give away the property of the Government to one State, or distribute the proceeds to the whole twenty-six States.

The advocates of *distribution*, however, aware, no doubt, that it is wholly untenable upon the admission that the public lands are the property of the National Government, assume the position that they do not belong to it *absolutely*, but have been merely placed under its control as a *trustee* for the *separate use* of the *several States*. This position is very important on the question of distribution, and unless it can be sustained by some indubitable and express authority, there is no foundation, as I conceive, upon which the right or policy of distribution to the several States can rest. The position that the National Government is a mere trustee for the use of the separate States in severalty, is based, as far as I can understand, upon the original deeds of cession from some of the States to the United States Government. It becomes necessary therefore to trace the history of our public lands back to their acquisition by the United States, in order to ascertain in what capacity the National Government received those deeds, and the character of the title conveyed by them. At the period of the Declaration of Independence by the thirteen States, then colonies, New York, Virginia, Massachusetts, Connecticut, the two Carolinas, and Georgia, claimed, by their respective charters from the British crown, extensive territories of waste and unsettled lands. It was soon afterwards found that these unoccupied, indeed, unascertained lands, presented the principal obstacle to the alliance of the States. As early as October, 1777, while the delegates were framing the Articles of Confederation, it was proposed to amend them, so as to vest in the "United States, in Congress assembled, the sole and exclusive right and power to ascertain and fix the western boundary of such States as claim to the Mississippi or South Sea, and lay out the land beyond the boundary so ascertained, into separate and independent States," &c. providing "that the waste or crown lands should be considered the *common property* of the United States." It was finally agreed, however, to waive any provision in the articles, and leave the subject for future adjustment. All the States, except Maryland, acceded to the articles, some of them reserving the right to regard the lands as "*common property*." In May, 1779, the Legislature of Maryland gave instructions to her delegates, presenting objections to the Articles of Confederation and Union, from which I take the following extract:

"We are convinced policy and justice require that a country

unsettled at the commencement of this war, claimed by the British crown, and ceded to it by the treaty of Paris, if wrested from the common enemy by the blood and treasure of the thirteen States, should be considered as a '*common property*,' &c.

On the 7th of March, 1780, the Legislature of New York passed an act "to facilitate the completion of the Articles of Confederation and perpetual Union among the United States of America," by which she limited her Western boundary, and thus ceded her western territory to the Confederacy, then in progress of completion, most of the States having signed the articles, but with fears and jealousies of those without claims to western territory, entertained and expressed, that those who claimed it would enjoy and might exercise an undue advantage and a preponderating influence. The preamble of the New York act commences thus:

"Whereas, nothing under Divine Providence can more effectually contribute to the tranquillity and safety of the United States of America than a Federal alliance on such liberal principles as will give satisfaction to its respective members: and whereas, the Articles of Confederation and perpetual union recommended by the honorable Congress of the United States of America were not found acceptable to all the States, it having been conceived that a portion of the waste and uncultivated territory within the limits or claims of certain States ought to be appropriated as a *common fund* for the expenses of the war," &c.

And proceeds to authorize her delegates to limit and restrict her boundaries, and to cede a portion of her territory which should "*be and enure for the use and benefit of such of the United States as shall become members of the Federal alliance*," &c. On the 6th of September of that year, Congress passed a resolution, urging "upon those States which can remove the embarrassments respecting the Western country, a liberal *surrender* of a portion of their territorial claims, since they cannot be preserved entire without endangering the stability of the *general Confederacy*," &c.

To appease the apprehensions and jealousies of the limited and smaller States, whose solicitude seemed to be not so much to derive an interest from the waste and uncultivated territory to themselves as to prevent the inequality which might arise from extensive territory belonging to other individual States, and therefore insisting that it should be laid out into new and separate States, on the 10th of October, 1780, Congress passed a resolution—

"That the unappropriated lands which may be ceded or relinquished to the United States by any particular State, pursuant to the recommendation of Congress of the 6th day of September last, shall be disposed of for the *common benefit* of the United States, and be settled and formed into distinct Republican States; which shall become members of the *Federal Union*," &c.

Soon after this pledge, Maryland assented to the articles, and on the 1st March, 1781, her delegates signed them, and the Union, so far as provided by that instrument, was completed. On the same day, the deed of cession from New York was executed in the terms above quoted from her act of March, 1780. The Virginia deed of cession is dated 1st March, 1784, made in pursuance of her act of Assembly of the 20th October, 1783, which contains authority—

"To convey, transfer, assign, and make over to the United States in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country, within the limits of the Virginia charter, lying and being to the northwest of the river Ohio, &c. '*subject to the terms and conditions contained in the before-recited act of Congress*,' &c."

This act contains several conditions, one of which is, "that all the lands within the territory so ceded to the United States shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become, members of the Confederation or Federal alliance of the said States," &c. The deed of cession from Massachusetts was executed 19th April, 1785, in pursuance of her act of Assembly, by which her delegates "do assign, transfer, quit claim, cede and convey to the United States of America for their benefit, Massachusetts inclusive, all right, title and estate, &c." "and to the uses in a resolve of Congress of the 10th of October, 1780," the resolve above quoted, and thus making it a part of the cession. The deed of cession from Connecticut is dated 13th September, 1786, and is declared to be "for the uses recited" in her act of Assembly of May preceding, which authorizes "an ample deed of release and cession of all the right, title, interest, jurisdiction, and claim of the State of Connecticut to certain western lands, &c." to be "released and ceded to the United States in Congress assembled for the common use and benefit of the said States, Connecticut inclusive." The deed from South Carolina is dated 9th August, 1787, in which her delegates employ the language, "do assign, transfer, quit claim, cede and convey to the United States of America for their benefit, South Carolina inclusive, all the right, title, &c." of that State. The Constitution was formed in the year 1787, but all the cessions had not yet been completed. North Carolina made her deed of cession 25th February, 1790, by which her Senators and Representatives in Congress, authorized by her law so to do, "conveyed to the United States of America all right, title, and claim," &c. of that State, upon condition, among other things, "that all the lands intended to be ceded to the United States of America shall be considered as a common fund, for the use and benefit of the United States of America, North Carolina inclusive," &c. The Georgia deed is dated 24th April, 1802, by which "the State of Georgia cedes to the United States all the right, title, and claim of said State," &c.; and on the same condition as above quoted from that of North Carolina. From these extracts, the purposes of the different cessions, invited and urged by the resolutions of Congress under the Confederacy, are very apparent. The grand object was to harmonize the States—to strengthen their alliance—to promote the general interest and common welfare—and to remove any impediment to the establishment of the Federal Union. The intention is very clear, by comparing the different cessions to surrender to the Confederacy of States—to the Government of the Union, all separate claim or title to those lands, for the common benefit of the whole, and not for the separate interest of any or all the States. What is meant by the term "*common benefit of the United States*," employed in the resolution of Congress of 10th October, 1780, which invited all the cessions afterwards, and is expressly referred to, and enters into some of them? Does it not mean precisely the same thing as "*common defence*" employed in that clause of the Constitution, which provides that "Congress shall have power to lay

and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States?" The term "*United States*," as used in the resolutions of Congress which formed the basis of the cessions—in the deeds of cession by the States, and in the Constitution, although plural in its form, is denominative of the Government—of the Union—that single political being formed by the alliance of the States, in their federative and united capacity, and not as designating a plurality of States separately. *Common benefit of the United States—common defence of the United States, and a common fund for the benefit of the United States*, means a benefit, defence, and fund, for the whole united, and not for each State individually. I am sure no one will pretend that the clause in the Constitution which authorizes Congress "to dispose of and make all useful rules and regulations respecting the territory or other property belonging the *United States*," empowers Congress to sell and dispose of any of the property of the individual States; yet, where is the difference? If it be urged that a cession to the "*United States*" is to be construed as a cession for the benefit of the several States individually, how is the construction to be escaped, that a power conferred to dispose of the territory or other property belonging to the *United States*, confers the power of disposing of the property of the individual States? If the term "*United States*" means the several States individually in the one case, why does it not mean the same thing in the other, and thus authorize Congress to sell and dispose of even the very public buildings of our State Capital? To such monstrous absurdities, I apprehend, does the construction fairly lead, that the term "*United States*," employed in most of the cessions, means the individual and several States of this Union.

The use of the term "*such of the United States as shall become members of the Federal alliance, &c.*" employed in two of the cessions, is easily accounted for, when we recollect that some of the States then withheld their assent from the Articles of Confederation; and besides, it was contemplated, and expressly agreed, that new and distinct States should be formed out of the ceded territory. It was the Confederacy—the Government—the national sovereignty, about to be formed, meant to be expressed in the two first cessions, as it was that, supposed to be completed, intended in the five last.

It has been suggested that these cessions were made for the purpose of defraying the expenses of the war, and that when that purpose was accomplished, there is a resulting trust for the use of the several States individually. It is a sufficient answer to this suggestion, that there is no such trust or condition expressed in any one of the cessions or grants. The expenses of the war are incidentally mentioned in some of the documents connected with the cessions, but merely as an incident, not as a condition of any of them. The only condition expressed which has any relation to the question of distribution, is the resolution of the 10th October, 1780, which is the groundwork of all the cessions, and the terms of which are clearly kept in view, is, that they "shall be disposed of for the common benefit of the *United States*, and be set-

bled and formed into distinct republican States,"—the very opposite of *distribution*, or disposition for the *individual benefit* of the *several States*. If any reservation or resulting trust could possibly be implied from those grants, after satisfying and accomplishing their alleged purpose, it might be worthy of inquiry, to whose use this reversionary interest would enure? And whether it would not be to the grantors—the States making the cessions? And on what principles a resulting trust could enure to any others? But no inquiry of that kind can arise. The cessions are absolute to the United States—to the Union. So far, then, from any authority being found in the cessions from the States for this right of distribution, upon any principle of fair construction, they vest the right absolutely in the United States Government, for the *common* benefit of the Union. This construction is fortified by the early legislation both of the old Congress under the Confederacy, and of that under the present Constitution. In May, 1785, an ordinance was passed, providing for the sale of those lands as the property of the United States, and directing the proceeds to be paid into the national Treasury. Between that and the adoption of the Constitution, numerous ordinances and resolutions were passed by that Congress, in which all the States were represented, of the same character. The triangle on Lake Erie was thus sold by the United States, and purchased by our own State, and the full purchase money paid into the Treasury of the United States, over \$150,000, and the deed executed by the President of the United States under the new Constitution, in all which the absolute title of the United States under the cessions of New York and Massachusetts is distinctly recognised; none of our delegates ever imagining or suggesting that Pennsylvania had a separate interest, without purchasing from the United States. As early as 4th August, 1790, an act of Congress distinctly designates the lands in the Western territory as *belonging to the United States*; and from that time forward, the uniform legislation is of the same purport.

But the United States acquired, by the cessions of the States above referred to, but a partial and imperfect title, to but a portion of the public lands—a mere right of pre-emption and purchase from the Indian tribes for a part of that territory, which now constitutes the public domain. The claims of the States were extremely vague and undefined, and those of different States, in some instances, covered the same territory. Since the definitive treaty of peace with Great Britain of September 3, 1783, they have no color of validity west of the Mississippi, or south of the thirty-first degree of north latitude; and even within those bounds, the country was held by the natives of the forest, who claimed, by immemorial occupancy, a title paramount to all charters or paper titles from those who never saw it, occupied it, won it, or even knew where it was.

By various treaties with the Indian tribes, their titles have been purchased by the United States, and paid for out of the Treasury of the nation. I have examined most of those treaties, and find the language employed in every instance is, that they "cede to the United States," or "relinquish to the

United States." With such conveyance, and such payment of consideration from the Treasury of the United States, upon what grounds can it be urged that so far as this title is acquired, it is in trust for the individual States? None, that I have been able to discover, or that have even been pretended.

An extensive portion of the public domain was acquired by the treaty with France, of the 30th of April, 1803, and that with Spain, of the 22d of February, 1819; and large sums of money paid from the common Treasury of the United States in consideration of the purchases thus made. The language of the French treaty, employed by the executive officer of that Government authorized to make it, is, "doth hereby cede to the said United States, in the name of the French Republic, forever, and in *full sovereignty*, the said territory, with all its rights and appurtenances, &c." The language of the Spanish treaty is, "His Catholic Majesty cedes to the United States, in *full property and sovereignty*, all the territories, &c." Can it be pretended, with the least shadow of reason, that, either by the purchases of various Indian titles, or those of France and Spain, there is the remotest semblance of a trust for the several States, individually? The conveyances are absolute in *full sovereignty* to the *nation*—the *union* of States; the purchases are by the *nation*, and the purchase money paid from the Treasury of the *nation*. If all this does not constitute an absolute title and ownership in the Government of the Union, I confess myself totally at a loss to conceive what expressions, or what instrument, could vest an absolute title to any property in any Government.

If, however, there even were, contrary to the clear and plain interpretation of the several instruments by which the title was conveyed to the United States, a resulting trust to the individual States in severalty, either to the lands themselves or to the proceeds arising from their disposal, on every principle of law and equity that governs the relation of trustee and *cestui que trust*, the United States Government is entitled to be fully remunerated for all expenses fairly incurred on account of the alleged trust estate, before it can be called upon for distribution. How then does the account stand between the Government and the public lands? The expenses arising out of the purchases of the Indian titles, are complicated and difficult to be arrived at with any kind of precision—they run through numerous treaties—depend upon complicated trusts, annuities, reservations, agreements, life-annuities, and other liabilities. They have been estimated at the Indian Department, at about - - - - \$85,000,000.

The whole amount of purchase money and interest on the purchases of Louisiana and Florida from France and Spain, and other incidental expenses, had been calculated at about - - 49,000,000.

Making the whole cost - - \$134,000,000

The whole amount of receipts at the Treasury on account of the public lands, has been officially stated to be about - - 116,000,000

Leaving a balance not yet reim-

bursed to the Government of - \$18,000,000

Admitting, therefore, the existence of this alleged trust—and I do so but for the argument—on what grounds of law, of right, or of equity, can the claim on the part of the States rest for distribution of the proceeds of the public lands, at all events at the present time?

Does the measure of distribution stand on any better footing on the score of policy? It is somewhat remarkable that it is most strenuously pressed at the present time, by those who have declared, and labored to show, that the Treasury of the United States largely indebted; and who have not hesitated to announce it as bankrupt and insolvent. Happily for the country, this assertion is not founded in truth; yet this does not render less extraordinary and inconsistent the course of those who make it, and yet urge the withdrawal from the national Treasury of the only existing internal resource by which it is supplied, for the purpose of distribution or gift to the individual States of a fund yet largely indebted to the Treasury. It is true, however, that there is no surplus in the Treasury to render necessary, or even to warrant, the withdrawal from it of so important a source of revenue. The Secretary of the Treasury estimates the proceeds of the sales of the public lands for the present year at \$3,500,000, and the revenue from customs at \$19,000,000. These, with other resources, would be sufficient to defray the expenditures of the Government for the year, and leave in the Treasury a sum short of \$1,000,000—a sum quite small enough, certainly, to remain in the Treasury at all times, to meet any emergency. It is very clear, therefore, that there is no unnecessary surplus; and if the proceeds of the lands be withdrawn from the Treasury and given to the States, the deficiency thus created must be supplied by some tax imposed upon the people by Congress. Your honorable bodies seem to be fully aware of this result, by the expression of the

3d request, as contained in your 2d resolution, to wit: "to vote for such remodification or adjustment of the tariff as may increase the revenue derived from imposts equal to the wants of the National Government, so that at no time hereafter, under any pretext whatever, shall any money arising from the sales of the public lands be used by the General Government;" which I shall now consider, in connection with the proposed distribution, with which you have very justly associated it.

I cannot, for my part, in the view which I have taken of the subject, discover any difference between imposing duties to raise revenue for the purpose of distribution, and distributing a particular item of the revenue first, with a view of creating a deficiency to be supplied by an increase of taxes upon imports. There may be some difference in appearance, but the practical result is the same. The public lands are the property of the nation—the proceeds of their sale are the funds of the nation, promiscuously mingled from the first history of the Government up to the present time, with the other revenues of the Government in the common Treasury of the nation. Disguise it as we may, in the present state of the public Treasury, with just revenue sufficient to meet the ordinary expenditures of the Government, the proposition

to distribute the proceeds of the lands, (a very important item of national revenue) to the several States, is neither more nor less, practically, than that of proposing to levy taxes by the National Government, in order to meet expenditures authorized by State legislation, or to pay debts contracted under State authority. In this point of view, and in no other, can it be regarded. If the measure of collecting revenue under the authority of the National Government for distribution to the States, be determined upon, I submit whether it would not be more consistent with honesty, as well as sound policy, to raise the revenue first, and distribute the surplus when actually collected. A measure providing the means of increasing the national revenues might fail to be adopted. Experience has shown that scarcely any subject has produced more conflict than that of settling upon the most proper objects of taxation, and the rate and proportion in which the taxes or duties should be imposed. In a wide extended country like ours, embracing such a vast variety of interests, it is natural, nay, unavoidable that it should be so. The duties, under the existing laws, imposed upon the use of articles manufactured elsewhere, a large proportion of them the necessities of life, are estimated officially this year at \$19,000,000. On the supposition that our own manufacturers come into the market upon an equal footing with the importers of foreign fabrics, the conclusion is fair, that the people of this country pay taxes to the amount of double the revenue raised upon imports, or \$38,000,000; that is, they pay \$19,000,000 for the support of the Government, and \$19,000,000 more for the support of our domestic manufactures.

From this, and a variety of considerations which necessarily must arise, the Representatives of the people might conclude, that a taxation of \$38,000,000 upon the people, in this form, was as much as ought to be imposed; and if any interference should take place with the compromise, it should only be such as would raise the duties upon luxuries, and reduce them upon the necessities of life. If, however, a measure intended to increase the revenues should be agreed upon, it might fail to accomplish its anticipated purpose. An increase of revenue is not the necessary result of an increase of duties. If duties be raised so high as to exclude importation, revenue ceases, and the increase of price goes to the manufacturer, and becomes solely a measure of protection to his interests. Various causes might operate upon importations to prevent a permanent revenue from being derived from that source, even with an increase of taxes. In either event mentioned, or any other producing the same effect, the result of distributing, in the first instance, would be a deficiency of revenue to meet the wants of the Government, and the creation of an annual national debt to the amount of the fund withdrawn, \$3,500,000—equal to a permanent national debt of more than *fifty-eight millions of dollars*. I submit whether such a result is to be sought or desired.

I regard it as a sound principle of political economy, that each Government is best qualified to impose its own taxes to meet its own expenditures

—that the Government making appropriations, should incur the responsibility of providing the means of meeting them. What may be sound policy in the national Government, in view of its extended jurisdiction, multiplicity of interests, and relation to other nations, might be unjust and ruinous within the circumscribed limits of a State, in view of its local interests and connections. We see that a very different policy of taxation has obtained in the United States from that adopted in our own State, and no doubt both correct, taken in view of the different interests over which they respectively extend. In the former, taxation has been laid upon consumption and labor, and forms part of the price paid by the purchaser; in the latter, it is laid directly upon property, real and personal, offices, &c. Who is to be relieved or benefited by the adoption of a policy which makes the National Government a tax gatherer for the States? Not the people, taken in the aggregate, however it might be with classes or portions, because they have to pay the taxes to support both State and National Governments; and, taken as a whole, it can make but little difference to them under which Government they are obliged to make the payment, excepting in the amount paid for collecting, which is greater in the case of the National, than the State Government, and more uncertain. If a portion of the revenue be withdrawn from the United States Treasury for distribution to the States, and a deficiency created, the people—those of Pennsylvania in full proportion—must be taxed, in some form, to supply that deficiency, and besides pay the expenses incident to its collection, or else the deficiency must remain as a permanent debt. It would operate to transfer tax from the wealthy, the owners of property, to those less able to bear it. Under our State laws, property, real and personal—bank stock, mortgages, pleasure carriages, &c.—in the hands of the owners, are the objects of State taxation; the tax is assessed and collected directly as such. Under the tariff laws of the United States, the tax is imposed upon the consumption of articles the necessities of life: such as sugar, salt, clothing, glass, tools, &c.—articles of which a poor man will probably consume or use as much as he who is worth millions; while lands, bank stock, &c. which constitute the wealth of the latter, contribute not one cent to the national revenue. The poor man's axe, with which he fells the trees of the forest, which costs, at the place where entered, say \$1, has a tax imposed upon it, under our tariff laws, of about 25 cents, which is paid by the merchant; and with his profits, say 10 per cent. added, sold to the laborer at the price of \$1 37½, the merchant thus performing the office of collector; while the real estate, improved by his labor, however valuable, pays nothing. A pound of sugar, of which the humblest in society needs as much for use as the wealthiest, is taxed and paid, as part of the price, at the rate of about 25 per cent. while the sugar plantation, itself worth thousands, is free from this tax in the hands of its wealthy possessor.

I do not know that an increase of this inequality of taxation, extending through a vast variety of interests, the obvious effect of this scheme of distribution, is desirable. It forms one of my objections

to it. The measure would operate, to some extent, to relieve the State Legislatures from their just responsibility, extending no relief that I can conceive to the people; and if the principle be correct, that taxation and expenditure should be coextensive, to be exercised by the same Government, it forms a serious objection, rather than a merit. I confess there appears to me a striking incongruity in the system of one sovereignty laying and collecting a tax from the same aggregate community, to be expended by another sovereign power among the same people. There is, to my mind, disunion lurking in its folds—a tendency to withdraw not only the national revenue, but the consideration and regard of legislators and the public from great national objects, works of common defence and general welfare, such as fortifications, navy and army improvements, and national highways, to matters of mere local concern. There is more to be found in it, I fear, of the example of him in the parable, who said: "Father, give me the portion of goods that falleth to me," than of that pure and enlarged patriotism and enlightened virtue and liberality which prompted the fathers of the Revolution generously and magnanimously to surrender their claims, for the *common benefit* of all, to secure political liberty and the priceless Union.

These are among my objections to the proposed measure of distribution, conclusive and satisfactory to my mind; but I cannot shut my eyes to what is so very apparent, however plausibly disguised, that it forms a part, the entering wedge, of a grand scheme of national debt, laying the foundation for a National Bank. That the proposition should be put forth at a time when there is acknowledgedly no surplus in the National Treasury, before any measures are matured to supply the vacuum to be created, cannot fail to strike every one as somewhat extraordinary. What well founded objection lies against our existing land system, which is coeval with the Government itself, and has continued to diffuse its benefits throughout the Union, in the rapid and steady march with the growth of the country in wealth and population? Do not the people of Pennsylvania, in common with those of every other State, enjoy their just proportion of the *common inheritance*, by the tide of proceeds of the public lands flowing into their *common Treasury*, and appropriated to their *common benefit*? Shall we ever lose sight of the inestimable blessings and privileges secured by the Union? Should the soil of our State, or the rights of her citizens be invaded by a foreign enemy, is it of no value to them that the national arm is forthwith raised in all its united power for their protection? And how is that protection to be secured if the means are withdrawn, and that arm paralyzed? With distribution, the *common inheritance* must necessarily cease.

I must be pardoned for the expression of some surprise at the closing clause of your second resolution—"that at no time hereafter, under any *pretext* whatever, shall any money arising from the sales of the public lands, be used by the General Government." Is it possible that this is intended to convey the imputation against any of the representatives here, either of the States or of the peo-

ple, of the employment of low trick or chicanery, to divert the proceeds of the public lands to some unworthy purpose, against the general interests of the people? Or is it intended to debar the General Government, under all possible circumstances, and in the most pressing emergency, from the use of the common property of the nation, to defend the lives and liberties of American citizens?—to guard and protect American honor?—that if a ruthless enemy were traversing our beloved country, burning our cities, plundering our property, butchering our women and children, and “battering down the walls of our Capitol,” and the Treasury empty, save the proceeds of the public lands, yet, the hands of the nation shall be tied, that her representatives dare not reach forth to apply a dollar, to save our common country from ruin, or to reward the services of a bleeding soldier, suffering in defence of his country’s rights! If such be your meaning, as such is the undoubted import of your language, I can never yield an assent to its terms.

It will be readily perceived, from what I have endeavored to express, that I am opposed to all the modern schemes that have been pro-

jected in relation to the public lands of the United States, except pre-emption, which is not the introduction of any new principle, but the reduction to system of that which has always prevailed in practice. That I am unwilling to disturb or overturn our existing land system, which had its origin in that age of patriotism, and virtue, which has just gone before us, and which has proved its wisdom by its fruits without the most clear and urgent reasons, which I am unable to discover in either of the schemes of cession or distribution. That if a remodification of the tariff should take place, or the compromise act be disturbed at all, it should be for no other purpose than that of rendering it more just and equal, by imposing heavier duties upon articles of luxury, and reducing them upon articles in common use among all the people.

I have the honor to be,

Very respectfully,

Your obedient servant,

JOHN GALBRAITH.

February 15, 1841.